

DOCKET FILE COPY (ORIGINAL)

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	FCC 94-202
)	
Eligibility for the Specialized)	GEN Docket No. 94-90
Mobile Radio Services)	
and Radio Services in the)	
220-222 MHz Land Mobile Band)	
and Use of Radio Dispatch)	
Communications)	

To: The Commission

COMMENTS OF RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"), by its attorney and pursuant to Section 1.415 of the Commission's Rules, submits the following comments in response to the Notice of Proposed Rule Making and Notice of Inquiry ("NPRM") in the above-captioned proceeding released by the Federal Communications Commission ("FCC" or "Commission") on August 11, 1994.

I. STATEMENT OF INTEREST

The RCA is an association comprised of small cellular operators providing service to rural America. RCA's members serve over eighty licensed areas across the country encompassing approximately 6.5 million people. The majority of the area served by RCA member companies is rural in nature. RCA member companies are affiliated with Local Exchange Carriers ("LECs"). In the NPRM, the Commission tentatively concluded that it should amend its rules to permit all mobile service common carriers, including

No. of Copies rec'd
List A B C D E

0411

cellular carriers, to provide dispatch service.¹ RCA member companies will be affected constructively by the lifting of this unnecessary prohibition. Accordingly, RCA has a vested interest in the outcome of this proceeding.

II. BACKGROUND

Historically, rural telephone companies have been the only providers of telecommunications services in rural areas. Larger companies have chosen not to provide telephone service to these less profitable communities. The commitment these rural telephone companies have made to provide their subscribers with new telecommunications services is readily demonstrated by their quick roll-out of cellular services in the rural markets.

In 1988, the Commission began issuing construction permits for Rural Service Areas ("RSAs"). The five-year fill-in periods for completing construction in the RSAs have only recently started to expire. In most cases, RSAs have been built out completely or as near to completion as possible given terrain conditions that would prohibit full buildout. RCA anticipates that by the end of 1996, nationwide seamless cellular service will be a reality.

RCA submits that independent rural cellular carriers possess a commitment to serving their subscribers that is unmatched by the larger cellular carriers. The rural cellular carriers have contributed a great deal to the expedient delivery of cellular service in rural areas. Rural cellular carriers have been most

¹ NPRM at para. 30.

notably successful in their endeavors because they attempt to provide the types of services their customers desire. Unfortunately, because of the FCC's prohibition on the provision of dispatch services by common carriers,² rural cellular carriers have been unable to provide their customers with cellular dispatch services. As a result these services are not available in rural areas as they are in more economically attractive markets. As is discussed more fully below, elimination of the common carrier dispatch prohibition will allow rural cellular carriers to give their customers what they desire.

III. DISCUSSION

A. Repeal of the dispatch prohibition will allow rural cellular carriers to provide a valuable new service to those living in rural America.

RCA supports the Commission's tentative decision to eliminate the prohibition on the provision of dispatch services by mobile common carriers. Repeal of the dispatch ban will enhance competition among all CMRS providers and is consistent with the Congressional mandate set forth in the 1993 Omnibus Budget Reconciliation Act ("Budget Act") to formulate congruous regulations for CMRS providers.

More importantly, elimination of the dispatch prohibition will allow rural subscribers to obtain dispatch type services for the first time ever. Dispatch services will prove useful to small businesses located in rural areas and could provide incentives for

² See 47 C.F.R. Sections 22.519(a), 22.911(d) (1993).

the start-up of new businesses that rely on dispatch communications. Ranchers and farmers are particularly interested in receiving dispatch communications to monitor the whereabouts of their livestock and produce as they move from the ranches and farms to market.

B. RCA supports an immediate lift of the dispatch ban.

RCA urges the Commission to expeditiously lift the dispatch communications prohibition imposed on mobile common carriers. The FCC has proposed to "sunset" the rule until August 10, 1996 in order to coincide with the conclusion of the three year transition period provided in the Budget Act for existing private land mobile licensees to adjust to regulation as CMRS providers. RCA strongly opposes any sunset proposal. The sunset proposal deprives rural Americans of much needed service and should not be delayed under the guise of protecting existing dispatch service providers that do not even operate in rural areas. Allowing rural cellular carriers to provide dispatch service immediately would have no anti-competitive effect. Indeed, as discussed above, a repeal of the ban would actually enhance competition in the provision of commercial mobile radio services.

Accordingly, RCA advocates an immediate lifting of the ban. In the event the Commission sunsets the rule, RCA implores the Commission to exempt mobile common carriers that provide service to rural areas.

C. The Commission should not impose any restrictions on cellular dispatch.

As an alternative to delaying the lifting of the dispatch prohibition, the Commission proposes restrictions that would permit mobile common carriers to provide dispatch service only on a secondary basis, or alternatively, restrictions that would limit the amount of system capacity that common carrier licensees may devote to dispatch.³ RCA finds both of these alternatives insupportable and believes that the Commission should let the marketplace determine how CMRS spectrum, including frequencies allocated for cellular radio services will be used. Artificial regulations will only serve to hamper the efficient use of the spectrum and will delay the provision of much needed services to rural America. Consequently, RCA believes that it would be imprudent on the part of the Commission to adopt rules restricting capacity on a common carrier mobile system or requiring mobile common carriers to provide the service on a secondary basis only.

³ NPRM at para. 33.

IV. CONCLUSION

As discussed above, RCA believes that the FCC should repeal the common carrier dispatch prohibition. If the rule is repealed, rural cellular carriers will be able to provide a valuable service to those living in rural America. Accordingly, RCA respectfully submits that a repeal of the common carrier dispatch prohibition rule is consistent with the public interest, convenience and necessity.

Respectfully submitted,

RURAL CELLULAR ASSOCIATION

By:



Caressa D. Bennet,
Regulatory Counsel

1831 Ontario Place, NW
Suite 200
Washington, DC 20009
(202) 319-7667

October 5, 1994